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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

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Federal Communications Commission
Office of Secretary

In the Matter of)
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Digital Television Tuner Requirements) RM-
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To: The Commission

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PETITION FOR RULEMAKING

Pursuant to Section 1.401 of the Commission's rules¹, the Consumer Electronics Association ("CEA") and the Consumer Electronics Retailers Coalition ("CERC") respectfully submit this Petition for Rulemaking to request that the Commission accelerate to March 1, 2006, its requirement that all television receivers with screen sizes of 25 to 36 inches incorporate DTV tuners; and that it eliminate the July 1, 2005 date for 50 percent of such receivers to include DTV tuners. Doing so will expedite the delivery of these popular mid-size television receivers equipped with DTV tuners and eliminate the unintended consequences of the Commission's 50 percent requirements that became apparent in manufacturing and at retail only recently, but which threaten to impede the roll-out of television receivers equipped with DTV tuners.

¹ See 47 C.F.R. § 1.401 (2003).

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Introduction and Statement of Interest

The Commission's DTV tuner mandate requires that after July 1, 2006, all television receivers with screen sizes of 25 to 36 inches incorporate DTV tuners, and that at least 50 percent of such receivers include DTV tuners after July 1, 2005.² CEA and CERC, on behalf of their members, respectfully request that the Commission advance the one hundred percent requirement to March 1, 2006 (instead of July 1, 2006) and eliminate the 50 percent requirement due to take effect on July 1, 2005. Doing so will facilitate achieving the Commission's goal of ensuring that consumers rapidly acquire the capability to receive DTV signals so that the transition from analog to digital television can progress rapidly and smoothly for all stakeholders.³

CEA is the principal U.S. trade association of the consumer electronics and information technologies industries. Our members design, manufacture, distribute and sell a wide range of consumer products including digital and analog television receivers, television monitors, computer television tuner cards, and associated electronics such as digital video recorders ("DVRs"), video cassette recorders ("VCRs"), direct broadcast satellite radios ("DARS"), satellite television receivers ("DBS"), broadcast AM and FM radios, and similar products. CEA's more than 1,700 member companies include the world's leading consumer electronics manufacturers.

CERC is a nonprofit public policy corporation focused on the concerns of consumer electronics retailers and their customers and has addressed DTV transition issues for more than a decade. In addition to its longstanding specialist retailer members Best Buy, Circuit

² 47 C.F.R. § 15.117(i) (2003); *See Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MM Docket No. 00-39, Second Report and Order and Second Memorandum Opinion and Order, 17 FCC Rcd 15978 (2002) ("DTV Tuner Order").

³ *Id.* at ¶ 1.

City, RadioShack and Tweeter, CERC recently announced that general retailers Target and Wal-Mart have joined as Board members. CERC's membership also includes several trade associations; the North American Retail Dealers Association ("NARDA") also is a member of its Board.

Shortening the Time to Incorporate DTV Tuners In All 25"-36" TV Receivers and Eliminating the Interim 50 Percent Requirement Will Remove Barriers and Accelerate Marketplace Acceptance

In its DTV Tuner Order, the Commission required the inclusion of DTV tuners⁴ in all TV receivers on a phased-in schedule. When doing so, the Commission appropriately took note that manufacturers typically require 18 months to redesign their products to comply with new requirements and adopted a phased-in schedule to minimize the impact of these changes."⁵ The phased-in approach also benefits the DTV transition by allowing economies of scale to be progressively realized on higher-priced large display receivers so that DTV tuner costs will be lower when required to be added to less expensive smaller TV receivers. The added costs for the smaller receivers, if DTV tuners were required today, could double the price of 27-inch receivers, for example, which are widely available for \$180.⁶

CEA and CERC appreciate the Commission's recognition that manufacturers require an 18 month lead-time to change TV receiver chassis designs and production lines.⁷ Except

⁴ While CEA recognizes that the terminology "Tuner Mandate" has become synonymous with requiring digital reception in television products, it is important to realize that there is more to the digital TV reception requirement than just the tuning circuitry. Specifically, both a digital TV tuner and MPEG decoder/formatter and associated processors and memory are required for a fully functional device. In effect, the DTV tuner is a small computer and is very different from a simple NTSC-only tuner.

⁵ DTV Tuner Order at ¶ 38.

⁶ See, for example, *Mark's Monday Memo* for a weekly sampling of advertised television receiver prices at: <http://www.digitaltelevision.com/mondaymemo/mlist> (visited Oct. 28, 2004).

⁷ The Commission consistently has acknowledged and relied upon this standard manufacturing cycle in the television receiver industry. See e.g., *Second Periodic Review of the Commission's Rules and*

for the 50-percent requirements, the Commission's phased-in approach minimizes disruption to manufacturer production and retail purchase cycles, and provides time needed for the economies of scale to begin to be realized as sales of receivers increase.

Manufacturers' and retailers' recent and ongoing experience with the Commission's first 50 percent metric for 36-inch and larger receivers, however, compels the conclusion that the 50 percent requirement itself is antithetical to the purpose of the requirement, which is to increase marketplace demand for broadcast TV receivers that incorporate DTV tuners. In practice, the 50 percent requirement has proven to be unduly disruptive in the consumer marketplace in ways not foreseen and, in fact, threatens to slow, rather than to speed, consumer migration to TV receivers with DTV tuners. This is because consumers typically choose a lower-priced product with otherwise similar features, except for the DTV tuner.

The detriment of this 50 percent requirement will be magnified when applied to the much larger volume of models and sales of 25"-36" television receivers, in which the DTV tuner cost represents a much higher proportion of the total product cost.

The undesirable results of the 50 percent requirement would be mitigated by a single 100 percent deadline. Therefore, although CEA's and CERC's members were the intended beneficiaries of the 50 percent phase-in provision, we request that it be repealed and that, instead, the 100 percent requirement for 25"-36" receivers be accelerated to March 1, 2006. This date, less than 16 months from the filing of this petition, is the earliest feasible for manufacturers to meet. It already is less than the 18 months usually needed for redesign and

Policies Affecting the Conversion to Digital Television, Report and Order, 19 FCC Rcd 14114 at ¶ 159 (2004); *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, Implementation of Sections 551(c), (d), and (e) of the Telecommunications Act of 1996, Report and Order, 13 FCC Rcd 11248 at ¶¶ 21-24 (1998); *Closed Captioning Requirements for Digital Television Receivers*, *Closed Captioning and Video Description of Video Programming*, Implementation of Section 305 of the Telecommunications Act of 1996, *Video Programming Accessibility*, Report and Order, 15 FCC Rcd 16788 at ¶¶ 54-58 (2000).

manufacture, but we think that it is feasible for most manufacturers because similar work already is in progress to meet next year's benchmark of 100 percent of large-screen TVs and the 50 percent benchmark of mid-sized sets.

Manufacturers are laboring to lower the cost of DTV tuners to make their inclusion in TV receivers cost-effective and consumer-friendly. Significant production volumes are necessary, however, to realize price reductions and to approach near-term price points already well established in the market.⁸ To meet consumer expectations as costs rise, manufacturers have sought to enhance the utility of the new DTV tuner functionality by also including Digital Cable Ready ("DCR") functions, and some have added features such as PCMCIA and memory card slots and various digital connectors. These efforts may somewhat improve the perceived value of built-in DTVs to consumers, helping to overcome resistance to the higher costs associated with the DTV tuner itself.

Therefore, despite the manufacturers' best efforts, the cost of each DTV tuner added to 25"-36" TV receivers in July, 2005, still will represent a significant cost for consumers. It is essential to realize volume sales to force down costs as much as possible to present a reasonable value proposition to consumers. Analog-only 25" and 27" TV receivers commonly cost less than \$200, so adding a DTV tuner in many or most cases may represent a doubling in price to the consumer. Unless market incentives and consumer expectations are managed in recognition of this fact, the effect may be to impede rather than facilitate a speedy DTV transition.

⁸ It is well known that prices of established consumer electronics products generally decline annually, while quality increases. This has become a consumer expectation, particularly for a category as well-established as 25" color television receivers.

For retailers faced with the prospect of a much higher price for an entry-level product that will be sold alongside a product of the same size and brand that many or most consumers may view as identically satisfying their needs, the 50 percent rule presents an economic imperative that is at odds with the Commission's goals for the digital transition. A retailer must assume that, whether or not a manufacturer can find a market for its DTV-tuner sets, it will adhere to the 50 percent rule. Hence, the retailer must assume that the supply of lower-priced, non-DTV-tuner sets will be rationed, and that their acquisition prices will therefore be driven up. *Thus, the 50 percent rule forces retailers to take early steps to secure supplies of the non-tuner sets, which are being made artificially scarce.* No matter how committed a retailer is to the DTV transition, the 50 percent rule provides an imperative to over-order the potentially scarce non-DTV-tuner products and to under-order the more expensive products with the tuners whose price may be driven down later as a manufacturer seeks to achieve a 50/50 balance.⁹

This process and imperative have been seen in the 36" and above market, in which the cost of the DTV tuner accounts for a much smaller percentage of product cost. If allowed to shape the 25" market, however, this process can produce a result for the DTV transition that is the *opposite* of the result that the Commission, CE manufacturers, and CE retailers – indeed, *all* of the interests involved in the transition – would like to see. Repealing the 50 percent rule, and moving up the date for a 100 percent regime, will much better align the

⁹ Consumer electronics retailing is an intensely competitive business that has become even more competitive with the advent of Internet-based competition. A retailer on the wrong end of the 50 percent syndrome – who does not acquire a sufficient number of the lower-priced, non-DTV-tuner sets early and can acquire them later only in a bidding war, and who acquires *too many* of the tuner-product early, while a competitor waits and acquires its inventory after the price has been driven down, could be faced with unsustainable losses. In such a circumstance, economic survival compels planning according to the marketplace rather than according to public policy preferences.

policy behind the DTV tuner rule with market forces and consumer expectations, with which it will have to contend in order to be successful.

Recommended Amendment to Restore Balance to the TV Receiver Marketplace While Continuing Momentum Toward a Rapid Transition

CEA and CERC believe that it is in the interest of all concerned parties that, to achieve the goals set forth by the Commission in establishing its DTV Tuner Order, the Commission should revise its rules to incorporate a single 100 percent deadline for inclusion of DTV tuners in 25"-36" TV receivers. Such an amendment will help accelerate achievement of the Commission's goal of 100 percent DTV tuner inclusion in TV receivers 25"-36" sooner than currently planned.

Eliminating entirely the July 1, 2005, 50 percent deadline will prevent marketplace distortion and help ensure that manufacturers and retailers each can compete on a level playing field conducive to achieving the Commission's DTV goals. Manufacturers will continue introducing products with DTV tuners and retailers will continue distributing increasing numbers of these products. Changing the Commission's rules related to the 50 percent requirement will maintain competition among manufacturers and among retailers, and serve consumers best with earlier access to the DTV products.

Conclusion

For the reasons enumerated above, CEA and CERC urge the Commission to delete the 50 percent deadline for DTV tuners and replace it with a single 100 percent deadline to be effective on March 1, 2006. Adopting this new 100 percent effective date will permit the Commission to move the DTV transition forward faster than it originally planned, while generally adhering to the 18 months required by manufacturers to change their production lines, and retailers to implement their purchase cycles – which operate accordingly to plans

that must be set equally far in advance – on a basis that allows both policy objectives and economic survival to be accommodated.¹⁰

CEA and CERC appreciate the Commission's desire to speed the DTV transition. To address the unintended consequences of its 50 percent phased-in approach, caused by low estimates of the cost of DTV tuners in the near-term as well as unanticipated distortions to the very competitive businesses of manufacturing and retailing, a single 100 percent effective date of March 1, 2006 will better ensure that the Commission can achieve its goals in establishing the DTV tuner mandate.

¹⁰ The buying cycle is such for major retailers that they *already* are addressing the 2005 model lines. Hence, time is of the essence if the reform proposed herein is to have its salutary effect on the transition.

Respectfully submitted,



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November 5, 2004

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